


AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

ITIAL)

TYPE GEN	<input checked="" type="checkbox"/>	PERSONAL APPEARANCE	RECORD REVIEW
COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL
YES	<input type="checkbox"/>	THE AMERICAN LEGION	
No	<input checked="" type="checkbox"/>		

MEMBER SITTING	VOTE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
	X				
	X				
					X
	X				
	X				

ISSUES	A92.22 A93.02	INDEX NUMBER	A67.10	EXHIBITS SUBMITTED TO THE BOARD	
				1	ORDER APPOINTING THE BOARD
				2	APPLICATION FOR REVIEW OF DISCHARGE
				3	LETTER OF NOTIFICATION
				4	BRIEF OF PERSONNEL FILE
					COUNSEL'S RELEASE TO THE BOARD
					ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE
					TAPE RECORDING OF PERSONAL APPEARANCE

HEARING DATE	13 Oct 2005	CASE NUMBER	FD-2005-00144
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APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

Case heard at Washington, D.C.

Advise applicant of the decision of the Board and the right to submit an application to the AFBCMR.

Names and votes will be made available to the applicant at the applicant's request.

SIGNATURE OF BOARD MEMBER	SIGNATURES OF BOARD PRESIDENT
	

INDORSEMENT		DATE: 10/13/2005
TO:	SAF/MRBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742	FROM: SECRETARY OF THE AIR FORCE PERSONNEL COUNCIL AIR FORCE DISCHARGE REVIEW BOARD 1535 COMMAND DR, EE WING, 3RD FLOOR ANDREWS AFB, MD 20762-7002

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2005-00144

GENERAL: The applicant appeals for upgrade of discharge to honorable and to change the reenlistment code.

The applicant appeared and testified before the Discharge Review Board (DRB), with counsel, at Andrews AFB on 13 Oct 2005. The following witness also testified on the applicant's behalf: Capt [REDACTED] (his wife), and retired CMSgt [REDACTED] (former military supervisor and current civilian supervisor).

The following additional exhibits were submitted at the hearing:

Exhibit 5: Applicant's Contentions

Exhibit 6: American Legion Statement and nine Character Reference Letters

The attached brief contains available pertinent data on the applicant and the factors leading to the discharge.

FINDINGS: The discharge is upgraded to honorable. Change of reenlistment code is denied.

The Board finds that neither the evidence of record nor that provided by applicant substantiates an impropriety that would justify a change of discharge. However, the Board finds relief is warranted based upon consideration of the applicant's service record and the additional evidence presented by the applicant.

ISSUE: Applicant contends that his youth and immaturity contributed to and extenuated his misconduct and that his post-service conduct has been sufficiently creditable to warrant the requested relief. The DRB agreed that the applicant's immaturity contributed to his misconduct and was corroborated not only by his performance reports but also through his own testimony and the testimony of his witnesses. The Board concluded that the applicant's immaturity, as well as marital and personal problems impaired his ability to serve and that his lengthy post-service reflected maturity and extremely good citizenship.

CONCLUSIONS: The Discharge Review Board concludes that the discharge was consistent with the procedural and substantive requirements of the discharge regulation and was within the discretion of the discharge authority and that the applicant was provided full administrative due process. However, in view of the foregoing findings, the Board further concludes that the overall quality of applicant's service is more accurately reflected by an Honorable discharge. The applicant's characterization should be changed to honorable under the provisions of Title 10, USC 1553.

Attachment:

Examiner's Brief

DEPARTMENT OF THE AIR FORCE
AIR FORCE DISCHARGE REVIEW BOARD
ANDREWS AFB, MD

(Former A1C) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Andrews AFB, MD on 18 Jun 99 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for an Honorable Discharge and to Change the RE Code.

2. **BACKGROUND:**

a. DOB: 5 Aug 75. Enlmt Age: 18 4/12. Disch Age: 23 10/12. Educ: HS DIPL. AFQT: N/A. A-93, E-44, G-66, M-20. PAFSC: 4T051 - Medical Laboratory Journeyman. DAS: 5 Oct 95.

b. Prior Sv: (1) AFRes 29 Dec 93 - 16 Jun 94 (5 months 18 days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 17 Jun 94 for 6 yrs. Svd: 5 Yrs 0 Mo 2 Das, all AMS.

b. Grade Status: A1C - 29 Jan 99 (Article 15, 29 Jan 99)
SrA - 02 Dec 96
A1C - 02 Aug 94

c. Time Lost: None.

d. Art 15's: (1) 29 Jan 99, Andrews AFB, MD - Article 91. You, on or about 11 Jan 99, were disrespectful in language toward SSgt [REDACTED] then known by you to be a superior, who was then in the execution of his office, by saying to him, "...all you NCO's are no good...grow a spine and use your stripes...you spineless bastard...", or words to that effect. Reduction to A1C, and 14 days extra duty. (No appeal) (No mitigation)

(2) 25 Jun 97, Andrews AFB, MD - Article 86. You did, on or about 18 Jun 97, without authority, fail to go at the time prescribed to your appointed place of duty. Suspended reduction to A1C. Fourteen days extra duty. (No appeal)

e. Additional: LOR, 20 MAY 99 - Insubordinate conduct to an NCO.
LOR, 20 MAY 99 - Failure to obey a lawful order and total disrespect to authority.
LOC, 18 AUG 98 - Insubordinate conduct to an NCO.
LOR, 22 DEC 97 - Dereliction of duty.
LOR, UNDATED - Cited by Base Law Enforcement for underage drinking.

f. CM: None.

g. Record of SV: 17 Jun 94 - 15 Jan 96 Andrews AFB 4 (HAF Dir)
16 Jan 96 - 15 Mar 97 Andrews AFB 3 (Annual)
16 Mar 97 - 15 Mar 98 Andrews AFB 3 (Annual)

h. Awards & Decs: AFLSAR, AFTR, AFOUA W/1 DEV, AFGCM.

i. Stmt of Sv: TMS: (5) Yrs (5) Mos (21) Das
TAMS: (5) Yrs (0) Mos (2) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 4 Apr 05.
(Change Discharge to Honorable and Change the RE Code)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. DD Form 214.
3. Nine Character References.

17MAY05/ia

AAIRE FD 2005-00144

APPLICATION FOR THE REVIEW OF DISCHARGE FROM THE ARMED FORCES OF THE UNITED STATES

(Please read instructions on Pages 3 and 4 BEFORE completing this application.)

Form Approved
OMB No. 0704-0004
Expires Aug 31, 2006

The public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Department of Defense, Executive Services and Communications Directorate (0704-0004). Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number. PLEASE DO NOT RETURN YOUR FORM TO THE ABOVE ORGANIZATION. RETURN COMPLETED FORM TO THE APPROPRIATE ADDRESS ON BACK OF THIS PAGE.

PRIVACY ACT STATEMENT

AUTHORITY: 10 U.S.C. 1553; E.O. 9397.

PRINCIPAL PURPOSE(S): To apply for a change in the characterization or reason for military discharge issued to an individual.

ROUTINE USE(S): None.

DISCLOSURE: Voluntary; however, failure to provide identifying information may impede processing of this application. The request for Social Security Number is strictly to assure proper identification of the individual and appropriate records.

1. APPLICANT DATA (The person whose discharge is to be reviewed). PLEASE PRINT OR TYPE INFORMATION.

a. BRANCH OF SERVICE (X one) ARMY MARINE CORPS NAVY AIR FORCE COAST GUARD

b. NAME (Last, First, Middle Initial) [REDACTED] c. GRADE/RANK AT DISCHARGE E-3/AIC d. SOCIAL SECURITY NUMBER [REDACTED]

2. DATE OF DISCHARGE OR SEPARATION (YYYYMMDD) (If date is more than 15 years ago, submit a DD Form 149) 19990618
4. DISCHARGE CHARACTERIZATION RECEIVED (X one) HONORABLE GENERAL/UNDER HONORABLE CONDITIONS UNDER OTHER THAN HONORABLE CONDITIONS
5. BOARD ACTION REQUESTED (X one) CHANGE TO HONORABLE CHANGE TO GENERAL/UNDER HONORABLE CONDITIONS CHANGE TO UNCHARACTERIZED (Not applicable for Air Force) CHANGE NARRATIVE REASON FOR SEPARATION TO:

3. UNIT AND LOCATION AT DISCHARGE OR SEPARATION 89 Med Dia & Ther Sq, Andrews AFB
BAD CONDUCT (Special court-martial only)
UNCHARACTERIZED
OTHER (Explain)

6. ISSUES: WHY AN UPGRADE OR CHANGE IS REQUESTED AND JUSTIFICATION FOR THE REQUEST (Continue in Item 14. See instructions on Page 3.)
I am requesting that my discharge from the United States Air Force, General (Under Honorable Conditions), be changed/upgraded to Honorable with reclassification of Reentry Code from 2B to 1J. The reason for my discharge was based upon my misconduct. I failed to go take my CDC test after working an evening shift and showed disrespect to my NCOIC, each incident resulting in an Article 15. In the first incident, I was scheduled to take one of my 5-level CDC tests after working an evening shift (1500-2300). I

7. (X if applicable) AN APPLICATION WAS PREVIOUSLY SUBMITTED ON (YYYYMMDD) _____ AND THIS FORM IS SUBMITTED TO ADD ADDITIONAL ISSUES, JUSTIFICATION, OR EVIDENCE.

8. IN SUPPORT OF THIS APPLICATION, THE FOLLOWING ATTACHED DOCUMENTS ARE SUBMITTED AS EVIDENCE: (Continue in Item 17. If military documents or medical records are relevant to your case, please send copies.)
1 copy of DD Form 214 and 9 letters of recommendation

9. TYPE OF REVIEW REQUESTED (X one) CONDUCT A RECORD REVIEW OF MY DISCHARGE BASED ON MY MILITARY PERSONNEL FILE AND ANY ADDITIONAL DOCUMENTATION SUBMITTED BY ME. I AND/OR (counsel/representative) WILL NOT APPEAR BEFORE THE BOARD.
 I AND/OR (counsel/representative) WISH TO APPEAR AT A HEARING AT NO EXPENSE TO THE GOVERNMENT BEFORE THE BOARD IN THE WASHINGTON, D.C. METROPOLITAN AREA.
 I AND/OR (counsel/representative) WISH TO APPEAR AT A HEARING AT NO EXPENSE TO THE GOVERNMENT BEFORE A TRAVELING PANEL CLOSEST TO (enter city and state) (NOTE: The Navy Discharge Review Board does not have a traveling panel.)

10.a. COUNSEL/REPRESENTATIVE (If any) NAME (Last, First, Middle Initial) AND ADDRESS (See Item 10 of the instructions about counsel/representative.)
b. TELEPHONE NUMBER (Include Area Code)
c. E-MAIL
d. FAX NUMBER (Include Area Code)

11. APPLICANT MUST SIGN IN ITEM 13.a. BELOW. If the record in question is that of a deceased or incompetent person, LEGAL PROOF OF DEATH OR INCOMPETENCY MUST ACCOMPANY THE APPLICATION. If the application is signed by other than the applicant, indicate the name (print) _____ and relationship by marking a box below.
 SPOUSE WIDOW WIDOWER NEXT OF KIN LEGAL REPRESENTATIVE OTHER (Specify)

12.a. CURRENT MAILING ADDRESS OF APPLICANT OR PERSON ABOVE (Indicate any change in address.) [REDACTED]
b. TELEPHONE NUMBER (Include Area Code)
c. E-MAIL [REDACTED]
d. FAX NUMBER (Include Area Code) N/A

13. CERTIFICATION. I make the foregoing statements, as part of my claim, with full knowledge of the penalties involved for willfully making a false statement or claim. (U.S. Code, Title 18, Sections 287 and 1001, provide that an individual shall be fined under this title or imprisoned not more than 5 years, or both.)
a. SIGNATURE - REQUIRED [REDACTED] b. DATE SIGNED - REQUIRED (YYYYMMDD) 20050404
CASE NUMBER (Do not write in this space.) FD 2005-00144

14. CONTINUATION OF ITEM 6, ISSUES (If applicable)

failed to wake up on time and missed my appointment. In the second incident, I was asking for a day off due to TMO moving my pregnant wife (placed on bed-rest due to complications) and myself into base housing. My NCOIC stated that my wife was there and could handle the move. When I reminded him that she was on bed-rest, he stated that she could move from the bed to the couch when the movers took the bed to the truck. To this statement, I re-acted and made a statement disrespecting him and his authority. I will be the first to admit that I am without faults. I take full responsibility for my actions, and pray that they did not bring any ill feeling onto the Air Force. At the time of both of these incidents, I was young and immature. Since my discharge, I have grown and matured. I am now father to three children, of which I try every day to be a good role model to. I have always supported the armed force's mission and its members' service to this nation. I continue in this support daily by my role as a husband to my wife and her active duty career, and by my role as a brother to my siblings serving in the Marine Corps and Navy. Please accept my apologies for my past misconducts, and upgrade my General discharge (Under Honorable Conditions) to Honorable.

15. CONTINUATION OF ITEM 8, SUPPORTING DOCUMENTS (If applicable)

16. REMARKS (If applicable)

MAIL COMPLETED APPLICATIONS TO APPROPRIATE ADDRESS BELOW.

ARMY

Army Review Boards Agency
 Support Division, St. Louis
 9700 Page Avenue
 St. Louis, MO 63132-5200
 (See <http://arba.army.pentagon.mil>)

NAVY AND MARINE CORPS

Naval Council of Personnel Boards
 720 Kennon Street, S.E.
 Room 309 (NDRB)
 Washington Navy Yard, DC 20374-5023

AIR FORCE

Air Force Review Boards Agency
 SAF/MRBR
 550-C Street West, Suite 40
 Randolph AFB, TX 78150-4742

COAST GUARD

U.S. Coast Guard
 Commandant (G-WPM)
 2100 Second Street, S.W. Room 5500
 Washington, DC 20593

PD 2005-00144



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 89TH AIRLIFT WING (AMC)

3 Jun 99

MEMORANDUM FOR A1C [REDACTED] 89 MDTS

FROM: 89 MDTS/CC
Andrews AFB MD 20762

SUBJECT: Notification Memorandum – Administrative Discharge

1. I am recommending your discharge from the United States Air Force for Misconduct, specifically Minor Disciplinary Infractions. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.49. If my recommendation is approved, your service will be characterized as general (under honorable conditions).

2. My reasons for this action are:

a. You did, at or near Andrews Air Force Base, Maryland, on or about 19 Jun 96, wrongfully consume alcoholic beverages while under the age of 21, in violation of Maryland State Law, to wit: Maryland Code Section 400A, which prohibits the possession or consumption of alcoholic beverages by persons under 21 years of age. As a result, you received a letter of reprimand, not dated (attachment 1).

b. You did, at or near Andrews Air Force Base, Maryland, on or about 18 Jun 97, fail to go to your appointed place of duty at the time prescribed. As a result, you received an Article 15, 25 Jun 97 (attachment 2).

c. You were, at or near Andrews Air Force Base, Maryland, on or about 7 Nov 97, derelict in the performance of your duties by intentionally entering information on another user's computer to change their computer's banner to read: "I am a proud gay husband" and "I am gay and proud of it." As a result, you received a letter of reprimand, 22 Dec 97 (attachment 3).

d. You did, at or near Andrews Air Force Base, Maryland, on or about 18 Aug 98, display insubordinate conduct to a noncommissioned officer. As a result, you received a letter of counseling, 18 Aug 98 (attachment 4).

e. You did, at or near Andrews Air Force Base, Maryland, on or about 11 Jan 99, use disrespectful language toward Staff Sergeant [REDACTED] then known by you to be a superior, who was then in the execution of his office, by saying to him, "...all you NCO's are no good...grow a spine and use your stripes...you spineless bastard...", or words to that effect. As a result, you received an Article 15, 29 Jan 99 (attachment 5).

f. You did, at or near Andrews Air Force Base, Maryland, on or about 14 May 99, display insubordinate conduct to a noncommissioned officer. As a result, you received a letter of reprimand, 20 May 99 (attachment 6).

g. You did, at or near Andrews Air Force Base, Maryland, on or about 17 May 99, display insubordinate conduct to a commissioned officer. As a result, you received a letter of reprimand, 20 May 99 (attachment 7).

3. I have attached copies of the documents to be forwarded to the separation authority in support of this recommendation. The commander exercising SPCM jurisdiction or a higher authority will decide whether you will be discharged or retained in the Air Force and, if you are discharged, how your service will be characterized. If you are discharged, you will be ineligible for reenlistment in any component of the Armed Forces, and any special pay, bonuses, or education assistance funds may be subject to recoupment.

4. You have the right to military counsel. I have made an appointment for you with the Area Defense Counsel. Report to 1430 Arnold Avenue at 1100, 4 Jun 99. Instead of the appointed counsel, you may have another, if the attorney you request is in the active military service and is reasonably available as determined according to AFI 51-201. In addition to military counsel, you have the right to employ civilian counsel. The Air Force does not pay expenses incident to the employment of civilian counsel. Civilian counsel, if employed, must be readily available.

5. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me no later than three duty days from today, unless you request and receive an extension for good cause shown. I will send them to the separation authority.

6. If you fail to consult counsel or to submit statements in your own behalf, your failure will constitute a waiver of your right to do so.

7. You will receive a physical examination. The reporting time will be 0730 hours on 7 Jun 99. You will follow the instructions listed below prior to the date of your examination.

- a. Do not drink alcohol for 72 hours prior to the exam.
- b. Fast for 12 hours prior to the exam.
- c. Do not perform any type of aerobics, jogging or any other strenuous exercise for 24 hours prior to the exam.
- d. Do not wear contact lenses; bring glasses if you wear them.
- e. Bring your medical records with you.

f. Be in your duty uniform for both parts of your physical examination.

g. Bring a blue or black pen to write with.

8. Your initial appointment is for the completion of laboratory tests and the preliminary portion of the physical. The second part of your exam will be at 1500 hours on 7 Jun 99 at Internal Medicine with [REDACTED]. This will allow the physician to review the results of your preliminary examination and discuss their significance with you.

9. Any personal information you furnish in rebuttal is covered by the Privacy Act of 1974. A copy of AFI 36-3208, is available for your use at the Publications Library.

[REDACTED]

Lt Col, USAF, BSC

Section Commander,

89th Medical Diagnostics and Therapeutics Squadron

Attachments:

1. LOR, not dated
2. Article 15, 25 Jun 97
3. LOR, 22 Dec 97
4. LOC, 18 Aug 98
5. Article 15, 29 Jan 99
6. LOR, 20 May 99
7. LOR, 20 May 99